

Christopher R. Kaup, State Bar No. 014820
J. Daryl Dorsey, State Bar No. 024237
Tina M. Ezzell, State Bar No. 013825



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tme@tblaw.com
Attorneys for Plaintiff Genos Williams

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:

DEMPSTER AND MARY JACKSON,
Debtors.

GENOS WILLIAMS,
Plaintiff,
v.

DEMPSTER AND MARY JACKSON,
Defendants.

Chapter 7

Case No. 2:08-bk-14091-JMM

Adversary No. 2:10-ap-00291-JMM

**PLAINTIFF'S MOTION TO COMPEL
AND REQUEST FOR SANCTIONS**

Plaintiff Genos Williams ("Mr. Williams"), by and through undersigned counsel, moves pursuant to Federal Rules of Civil Procedure ("Rule") 37(a)(3)(A) (as made applicable to this adversary proceeding by Rule 7037 of the Rules of Bankruptcy Procedure) to compel Debtors Dempster and Mary Jackson ("Debtors") to make their Rule 26(a) disclosure. Mr. Williams further requests sanctions pursuant to Rule 37(a)(5)(A) for having to bring this motion.

1 This motion is supported by the Memorandum of Points and Authorities attached
2 below.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I. FACTUAL BACKGROUND**

5 Mr. Williams filed a complaint to determine the dischargeability of debt pursuant
6 to 11 U.S.C. §§ 523(a)(2)(A), (a)(4) and (a)(6). Mr. Williams alleges that Debtors should
7 not be discharged from certain debts due to Debtors' actions in obtaining and utilizing
8 Mr. Williams's property without permission. Mr. Williams, through his counsel, has
9 repeatedly attempted to get the Debtors to provide their Rule 26(a) disclosures. As
10 explained more fully below, Debtors continuously fail to provide the Rule 26(a)
11 disclosures. As a result, Debtors have effectively stalled this litigation from moving
12 forward.

13 On June 21, 2010, Louis A. Lofredo ("Mr. Lofredo"), a paralegal at Tiffany &
14 Bosco, P.A., called Michael J. Fatta ("Mr. Fatta"), the attorney for Debtors, and discussed
15 scheduling matters. On that same date, Mr. Lofredo sent an e-mail to Mr. Fatta to
16 memorialize the telephone conversation. **Exhibit "A."** In the e-mail, Mr. Lofredo
17 included a draft of the trial scheduling order and asked Mr. Fatta to review and modify
18 the scheduling order. Mr. Lofredo acknowledged that Mr. Fatta was involved in another
19 case and therefore proposed a generous date to exchange the initial disclosures—July 13,
20 2010. On June 25, 2010, Mr. Lofredo sent another e-mail to Mr. Fatta asking that any
21 changes or modifications be given by June 28, 2010. **Exhibit "B."** Mr. Fatta never
22 responded to this e-mail.

23 Over a week later, without a response from Mr. Fatta, Mr. Lofredo called Mr.
24 Fatta and spoke to Teresa Vasquez ("Ms. Vasquez"). Upon request of Ms. Vasquez, Mr.
25 Lofredo forwarded the June 21 e-mail to Ms. Vasquez and Mr. Fatta. **Exhibit "C."** Mr.
26

1 Lofredo asked for Mr. Fatta to provide feedback, but Mr. Fatta, again, failed to respond to
2 this request.

3 On July 1, 2010, Mr. Lofredo called Mr. Fatta to discuss the stipulation to extend
4 discovery. Mr. Lofredo prepared the stipulation and attached it in an e-mail to Mr. Fatta.
5 **Exhibit "D."** Per the parties' agreement, the date to exchange initial disclosures was
6 pushed to July 21, 2010. Mr. Fatta never responded or acknowledged this e-mail.
7 Therefore, neither party exchanged the initial disclosures on July 21, 2010. On July 30,
8 2010, Mr. Lofredo e-mailed Mr. Fatta and asked if the exchange could take place on
9 August 6, 2010. **Exhibit "E."** Mr. Fatta never responded or acknowledged this e-mail.

10 Hoping to encourage Mr. Fatta to make the Debtors' initial disclosure, Mr.
11 Williams provided his Rule 26(a) disclosure unilaterally on August 17, 2010. Mr.
12 Lofredo e-mailed Mr. Williams's Rule 26(a) initial disclosure statement to Mr. Fatta on
13 August 17, 2010. **Exhibit "F."** In an act of professional courtesy, Mr. Lofredo asked
14 that Debtors' initial disclosure be provided by August 23, 2010.

15 On August 20, 2010, Tina M. Ezzell ("Ms. Ezzell"), an attorney for Mr. Williams,
16 e-mailed Mr. Fatta with the purpose of scheduling a deposition. **Exhibit "G."** Ms.
17 Ezzell expressed that she was anticipating the Debtors' initial disclosure in the near
18 future. Mr. Fatta never acknowledged this e-mail.

19 On August 27, 2010, Mr. Lofredo called Mr. Fatta's office to inquire about the
20 initial disclosure and the deposition. Mr. Lofredo spoke to Ms. Vasquez, and she verified
21 that she would inquire into the initial disclosure and the deposition. Mr. Lofredo
22 memorialized the contents of this conversation in an e-mail dated that same date.
23 **Exhibit "H."**

24 On September 2, 2010, Ms. Vasquez acknowledged Mr. Lofredo's August 27 e-
25 mail and stated that the initial disclosure would be sent that week. **Exhibit "I."** The
26

1 initial disclosure was never sent. The parties also agreed to a deposition date of Mr.
2 Jackson.

3 On September 16, 2010, Ms. Ezzell e-mailed Mr. Fatta and asked to set up a time
4 to discuss the initial disclosure. **Exhibit “J.”** Ms. Ezzell wanted to make one last good
5 faith effort to obtain the initial disclosure before having to file a motion to compel with
6 the court. The following day, Ms. Ezzell spoke to Mr. Fatta. Mr. Fatta promised to have
7 the initial disclosure sent by September 22.

8 On October 1, 2010, Ms. Ezzell still had not received the initial disclosure. Ms.
9 Ezzell e-mailed Mr. Fatta and stated that she would be filing a motion to compel and
10 sanctions with the court if she did not receive the initial disclosure by October 4, 2010.
11 **Exhibit “K.”** Due to Mr. Fatta’s delay in providing the initial disclosure statement, Ms.
12 Ezzell was forced to postpone the deposition. On October 4, 2010, Mr. Fatta promised to
13 have the initial disclosure to Ms. Ezzell by the end of that day. **Exhibit “L.”** Mr. Fatta
14 said he only needed to make copies before sending the initial disclosure. On October 5,
15 2010, Mr. Fatta called Ms. Ezzell and promised to have the disclosure to her by the end
16 of the day.

17 As of the date of filing this motion, Mr. Williams and his attorneys have yet to
18 receive Debtors’ Rule 26(a) disclosure.

19 **II. LEGAL ARGUMENT**

20 **A. DEBTORS FAILED TO COMPLY WITH RULE 26(a).**

21 Rule 26(a) requires parties to provide basic information relating to the case.
22 Generally, the disclosure must be made 14 days after the parties have a Rule 26(f)
23 conference. However, the parties can agree to a different date by entering into a
24 stipulation.

1 In this case, the parties entered into a stipulation to exchange the initial disclosures
2 on July 21, 2010. When both parties failed to meet that deadline, Mr. Lofredo requested
3 that the parties exchange initial disclosures on August 6, 2010. Mr. Fatta never
4 responded to that request. In an attempt to encourage Debtors to file their initial
5 disclosures, Mr. Lofredo e-mailed Mr. Williams's initial disclosure on August 17, 2010
6 to Mr. Fatta. As a matter of professional courtesy, Mr. Williams permitted Debtors to file
7 their initial disclosure by August 23, 2010. Debtors did not meet the August 23 deadline.
8 Mr. Williams provided many more opportunities after August 23 for Debtors to provide
9 their Rule 26(a) disclosure, but Debtors have yet to comply.

10 Because of the Debtor's failure to provide their initial disclosure, Mr. Williams is
11 unable to proceed in the litigation. Specifically, Mr. Williams would like to depose
12 Debtors, but without an initial disclosure, he is unable to do so.

13 **B. THE COURT MUST COMPEL DEBTORS TO PROVIDE ITS RULE**
14 **26(a) INITIAL DISCLOSURE.**

15 Rule 37(a)(3)(A) states, "If a party fails to make a disclosure required by Rule
16 26(a), any other party may move to compel disclosure and for appropriate sanctions."
17 Rule 37(a) further requires a certification by the movant's attorney showing that a good
18 faith effort has been made. Ms. Ezzell's certification is in Part III below.

19 As explained in detail above, Debtors have failed to make the Rule 26(a)
20 disclosure. The court must, therefore, compel Debtors to provide the Rule 26(a) initial
21 disclosures. Mr. Williams has been generous in extending time, yet Debtors continue to
22 fail to meet their obligations. It has come to the point where Mr. Williams has cancelled
23 the duly scheduled deposition due to Debtors' non-compliance with Rule 26(a).

24 **C. THE COURT MUST ORDER SANCTIONS AGAINST DEBTORS**
25 **AND MR. FATTA.**

1 Rule 37(a)(5)(A) states that “the court must, after giving an opportunity to be
2 heard, require the party or deponent whose conduct necessitated the motion, the party or
3 attorney advising that conduct, or both to pay the movant's reasonable expenses incurred
4 in making the motion, including attorney's fees.”

5 Debtors and Mr. Fatta have failed to comply with Rule 26(a). If the court grants
6 the motion, the court is required to order sanctions. Since it appears both Debtors and
7 Mr. Fatta are at fault, Mr. Williams requests that both be sanctioned.

8 **III. RULE 37(a)(1) CERTIFICATION**

9 See the Declaration of Tina M. Ezzell, attached hereto. **Exhibit “M”.**

10 **IV. CONCLUSION**

11 For the reasons set forth above, Mr. Williams requests the court to compel Debtors
12 to provide its Rule 26(a) initial disclosure and to sanction Debtors and Mr. Fatta pursuant
13 to Rule 37(a).

14 DATED this 18th day of October, 2010.

15
16 **TIFFANY & BOSCO, P.A.**

17
18 By: J. Daryl Dorsey

19 Christopher R. Kaup

20 J. Daryl Dorsey

21 Tina M. Ezzell

22 Third Floor Camelback Esplanade II

23 2525 East Camelback Road

24 Phoenix, Arizona 85016

25 *Attorneys for Plaintiff Genos Williams*

1 **ORIGINAL** filed with the United
2 States Bankruptcy Court District of
3 Arizona and the foregoing mailed on
October 18, 2010, to the following:

4 Michael J. Fatta
5 LAW OFFICE OF MICHAEL J. FATTA, PLLC
6 18001 N. 79th Ave., Suite B-40
7 Glendale, AZ 85308
8 *Attorneys for Debtors*

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Erica Meany

EXHIBIT A

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:50 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002
Attachments: Order Granting Stipulation to an Extension of the Dates (434389).DOC; Stipulation for Extension of Time to Trial Scheduling Order (434384).DOC; Trial Scheduling Order.pdf

From: Louis A. Lofredo
Sent: Monday, June 21, 2010 3:12 PM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Re: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.
In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
File No.: 15007-002

Dear Mr. Fatta:

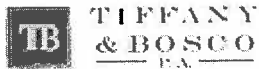
Further to our telephone conference today, attached is a Stipulation to an Extension to the Dates in the Trial Scheduling Order; and Joint Request for Enlargement of Time Set for Trial as well as related Order. I have also attached the current Trial Scheduling Order for your convenience.

Please review and modify the Stipulation and related Order as you deem necessary so that we may review your changes and then hopefully file the Stipulation with the Court soon. As for the mutual exchange date for the Initial Disclosure Statement, we understand that another case you have has a disclosure due at the end of June and therefore you will place a date that works for you in the Stipulation for consideration by Daryl Dorsey and Tina Ezzell, likely around July 13, 2010.

If you have any questions or comments, please contact us.

Sincerely,

Louis A. Lofredo
Paralegal
Direct (602) 255-6034 | Fax (602) 255-0103



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EXHIBIT B

Paul D. Cardon

From: Louis A. Lofredo
Sent: Friday, June 25, 2010 6:14 PM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey
Subject: RE: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

Please let me have your approval and/or revisions on Monday if possible.

Thank you,

Louis A. Lofredo
Paralegal

From: Louis A. Lofredo
Sent: Monday, June 21, 2010 3:12 PM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Re: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.
In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
File No.: 15007-002

Dear Mr. Fatta:

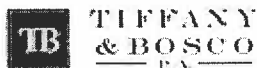
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EXHIBIT C

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:49 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002

Deleted due to attorney/client privilege.

From: Louis A. Lofredo
Sent: Tuesday, June 29, 2010 11:42 AM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

Further to my telephone conference with your assistant Teresa, we have forwarded our previous email request to you again with a cc to Teresa. We look forward to your response soon.

Sincerely,

Louis A. Lofredo
Paralegal

From: Louis A. Lofredo
Sent: Monday, June 21, 2010 3:12 PM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Re: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.

In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
File No.: 15007-002

Dear Mr. Fatta:

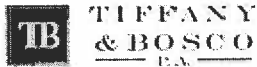
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EXHIBIT D

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:48 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002
Attachments: Stipulation to Extension to the Dates.pdf; Notice of Lodging Order Granting Extension.pdf

From: Louis A. Lofredo
Sent: Thursday, July 01, 2010 11:00 AM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: RE: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

Attached are the Stipulation and Notice that we filed with the Court today. Further to our telephone conference today, I changed the mutual exchange date for the initial disclosure statements from June 29, 2010 to July 21, 2010.

Sincerely,

Lou

From: Louis A. Lofredo
Sent: Tuesday, June 29, 2010 11:42 AM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

Further to my telephone conference with your assistant Teresa, we have forwarded our previous email request to you again with a cc to Teresa. We look forward to your response soon.

Sincerely,

Louis A. Lofredo
Paralegal

From: Louis A. Lofredo
Sent: Monday, June 21, 2010 3:12 PM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Re: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.
In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
File No.: 15007-002

Dear Mr. Fatta:

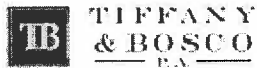
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If you have any questions or comments, please contact us.

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Louis A. Lofredo
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Direct (602) 255-6034 | Fax (602) 255-0103



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EXHIBIT E

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:47 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002

Deleted due to attorney/client privilege.

From: Louis A. Lofredo
Sent: Friday, July 30, 2010 3:53 PM
To: Louis A. Lofredo; 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: RE: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

Since we both did not provide disclosures by July 21, 2010, does the end of next week sound reasonable, August 6, 2010.

Sincerely,

Lou

From: Louis A. Lofredo
Sent: Thursday, July 01, 2010 11:00 AM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: RE: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

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Sincerely,

Lou

From: Louis A. Lofredo
Sent: Tuesday, June 29, 2010 11:42 AM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002

Dear Mr. Fatta:

Further to my telephone conference with your assistant Teresa, we have forwarded our previous email request to you again with a cc to Teresa. We look forward to your response soon.

Sincerely,

Louis A. Lofredo
Paralegal

From: Louis A. Lofredo
Sent: Monday, June 21, 2010 3:12 PM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Re: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.
In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
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Dear Mr. Fatta:

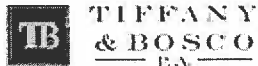
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EXHIBIT F

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:47 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002
Attachments: Lt Fatta fwd Initial Disclosure Statement and CD-ROM.pdf; Plaintiff's Initial Disclosure Statement.pdf

From: Louis A. Lofredo
Sent: Tuesday, August 17, 2010 4:58 PM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.
In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
File No.: 15007-002

Dear Mr. Fatta:

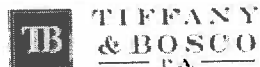
Attached is a copy of Plaintiff's Initial Disclosure Statement, which will be hand-delivery to you (it should arrive by tomorrow afternoon) along with a CD-ROM containing the documents listed in the disclosure statement.

The attached letter requests receiving Defendants' Initial Disclosure Statement and documents by August 23, 2010. Please let us know if you have another date in mind.

Sincerely,

Lou

Louis A. Lofredo
Paralegal
Direct (602) 255-6034 | Fax (602) 255-0103



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Phoenix, AZ 85016-9240
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EXHIBIT G

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:47 PM
To: Paul D. Cardon
Subject: FW: discovery and depositions

From: Tina M. Ezzell
Sent: Friday, August 20, 2010 11:53 AM
To: 'Michael J. Fatta'
Cc: J. Daryl Dorsey; Louis A. Lofredo; Christopher R. Kaup
Subject: discovery and depositions

Greetings, Mr. Fatta,

By now you have undoubtedly received our disclosure on behalf of Mr. Williams. I look forward to receiving the Jacksons' disclosure in the near future. I also intend to conduct Mr. Dempster Jackson's deposition as soon as reasonably possible, preferably in September. Therefore, would you please provide me with dates upon which you and Mr. Jackson are available for his deposition? Thank you in advance for your cooperation.

Tina M. Ezzell
Attorney
Direct 602-452-2747 | Fax 602-255-0103
tme@tblaw.com



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EXHIBIT H

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:46 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jackson et al.; T&B No. 15007-002

From: Louis A. Lofredo
Sent: Friday, August 27, 2010 3:57 PM
To: 't.angelica.v@gmail.com'
Cc: 'Michael J. Fatta'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: RE: Williams v. Jackson et al.; T&B No. 15007-002

Dear Ms. Angelica:

Further to our telephone conference today, we appreciate your inquiry to Mr. Fatta regarding dates he will be available for deposition in the second half of September. As we stated, we intend to notice the deposition of Mr. Jackson (perhaps as early as next week) in that time period and would prefer to arrange a date in advance on which Mr. Fatta does not have a conflict. Also, we understand that you will inquire as to when we will receive Mr. Jackson's disclosure statement.

Thank you,

Lou

From: Louis A. Lofredo
Sent: Tuesday, August 17, 2010 4:58 PM
To: 'Michael J. Fatta'
Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani
Subject: Williams v. Jackson et al.; T&B No. 15007-002

Re: Williams v. Jackson et al.
In re: Dempster and Mary Jackson
United States Bankruptcy Court, District of Arizona
Adversary Case No. 2:10-ap-00291-JMM
File No.: 15007-002

Dear Mr. Fatta:

Attached is a copy of Plaintiff's Initial Disclosure Statement, which will be hand-delivered to you (it should arrive by tomorrow afternoon) along with a CD-ROM containing the documents listed in the disclosure statement.

The attached letter requests receiving Defendants' Initial Disclosure Statement and documents by August 23, 2010. Please let us know if you have another date in mind.

Sincerely,

Lou

Louis A. Lofredo
Paralegal
Direct (602) 255-6034 | Fax (602) 255-0103



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EXHIBIT I

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:45 PM
To: Paul D. Cardon
Subject: FW: RE: Williams v. Jackson et al.; T&B No. 15007-002

Deleted due to attorney/client privilege.

Lou

From: TERESA VASQUEZ [<mailto:t.angelica.v@gmail.com>]
Sent: Thursday, September 02, 2010 3:55 PM
To: Louis A. Lofredo
Subject: Fwd: RE: Williams v. Jackson et al.; T&B No. 15007-002

----- Forwarded message -----

From: TERESA VASQUEZ <t.angelica.v@gmail.com>
Date: Thu, Sep 2, 2010 at 3:09 PM
Subject: Re: RE: Williams v. Jackson et al.; T&B No. 15007-002
To: MJFPLLC@aol.com

Good Afternoon,

I have spoken with Mike and any time in September should work for him. Please send me some dates so that we can coordinate. Also Mike will be sending out the disclosure statement this week. Thanks and have a great afternoon.

On Sun, Aug 29, 2010 at 6:38 PM, <T.ANGELICA.V@gmail.com> wrote:
FYI

----- Forwarded message -----

From: "Louis A. Lofredo" <lal@tblaw.com>
Date: Aug 27, 2010 3:56pm
Subject: RE: Williams v. Jackson et al.; T&B No. 15007-002

To: t.angelica.v@gmail.com

CC: "Michael J. Fatta" <mjfp1lc@aol.com>, "J. Daryl Dorsey" <jdd@tblaw.com>, "Tina M. Ezzell" <TME@tblaw.com>, "Lauri F. Andrisani" <lfa@tblaw.com>

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> Dear Ms. Angelica:
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> Further to our telephone
> conference today, we appreciate your inquiry to Mr. Fatta regarding dates he
> will be available for deposition in the second half of September. As we
> stated, we intend to notice the deposition of Mr. Jackson (perhaps as early as
> next week) in that time period and would prefer to arrange a date in advance on
> which Mr. Fatta does not have a conflict. Also, we understand that you will
> inquire as to when we will receive Mr. Jackson's disclosure statement.
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> Thank you,
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> Lou
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>
> From: Louis A. Lofredo
>
> Sent: Tuesday, August 17, 2010 4:58 PM
>
> To: 'Michael J. Fatta'

> Cc: 't.angelica.v@gmail.com'; J. Daryl Dorsey; Tina M. Ezzell; Lauri F. Andrisani

> Subject: Williams v. Jackson et al.; T&B No. 15007-002

> Re:

> Williams v. Jackson et al.

> In re: Dempster and Mary Jackson

> United States Bankruptcy Court,
> District of Arizona

> Adversary Case No.
> 2:10-ap-00291-JMM

> File No.: 15007-002

> Dear Mr. Fatta:

> Attached is a copy of Plaintiff's Initial Disclosure Statement,
> which will be hand-delivery to you (it should arrive by tomorrow afternoon)
> along with a CD-ROM containing the documents listed in the disclosure
> statement.

> The attached letter requests receiving Defendants' Initial
> Disclosure Statement and documents by August 23, 2010. Please let
> us know if you have another date in mind.

> Sincerely,

> Lou

EXHIBIT J

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:44 PM
To: Paul D. Cardon
Subject: FW: Williams v. Jacksons

From: Tina M. Ezzell
Sent: Thursday, September 16, 2010 10:35 AM
To: mjfpplc@aol.com
Cc: Louis A. Lofredo
Subject: Williams v. Jacksons

Mr. Fatta,

As you know, our paralegal (Lou) and I have been trying for months to obtain an initial disclosure and documents from you/ your clients. Despite promises, we still have not received any disclosure or documents. As you also know, your client's deposition is quickly approaching. I will personally call your office tomorrow at 10 am for my last personal good faith effort to obtain the disclosure before filing a motion with the court. If you will not be in at 10 am tomorrow, please alert me of a good time for me to call you tomorrow. Thank you.

Tina M. Ezzell
Attorney
Direct 602-452-2747 | Fax 602-255-0103
tme@tblaw.com



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EXHIBIT K

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:42 PM
To: Paul D. Cardon
Subject: FW: disclosure in Williams v. Jackson

From: Tina M. Ezzell
Sent: Friday, October 01, 2010 5:01 PM
To: mjfp LLC@aol.com
Cc: Erica A. Meany; J. Daryl Dorsey
Subject: disclosure in Williams v. Jackson

Mr. Fatta,

As you know, our paralegal and I have been attempting to obtain your clients' initial disclosure for some time. Although I have not yet counted, I suspect I will have at least 10 written requests to attach to a motion to compel/ motion for sanctions (which I am currently drafting). As you also know, you and I spoke on September 17, 2010 as my final good faith effort to get your clients' initial disclosure. You promised to have it for me the following Tuesday or Wednesday, which would have been September 21 or 22. I still do not have it. I am working on, and will file, a motion to compel/ motion for sanctions on Tuesday October 5, 2010 if I do not have the disclosure by Monday, October 4, 2010.

Due to your clients' failure to provide initial disclosures, it is with regret that I must postpone the deposition of your client, Dempster Jackson, set for October 6, 2010.

Tina M. Ezzell
Attorney
Direct 602-452-2747 | Fax 602-255-0103
tme@tblaw.com



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EXHIBIT L

Paul D. Cardon

From: Tina M. Ezzell
Sent: Thursday, October 14, 2010 9:41 PM
To: Paul D. Cardon
Subject: FW: disclosure in Williams v. Jackson

-----Original Message-----

From: Michael [<mailto:mjfp11c@aol.com>]
Sent: Monday, October 04, 2010 8:05 AM
To: Tina M. Ezzell
Subject: Re: disclosure in Williams v. Jackson

Ms. Ezzell:

I apologize for the delay. I have had numerous documents to review in Mr. Jackson's records and have had to have several discussions with him to collate the material. I work alone and have no legal assistants. I have drafted the Disclosure Statement and will have it to your office on Monday, October 4, 2010. Only have to make copies of the documents to attach to Statement.

Mike Fatta

-----Original Message-----

From: Tina M. Ezzell <TME@tblaw.com>
To: mjfp11c@aol.com
Cc: Erica A. Meany <eameany@tblaw.com>; J. Daryl Dorsey <jdd@tblaw.com>
Sent: Fri, Oct 1, 2010 5:01 pm
Subject: disclosure in Williams v. Jackson

Mr. Fatta, As you know, our paralegal and I have been attempting to obtain your clients' initial disclosure for some time. Although I haven't yet counted, I suspect I will have at least 10 written requests to attach to a motion to compel/ motion for sanctions (which I am currently drafting). As you also know, you and I spoke on September 17, 2010 as my final good faith effort to get your clients' initial disclosure. You promised to have it for me the following Tuesday or Wednesday, which would have been September 21 or 22. I still do not have it. I am working on, and will file, a motion to compel/ motion for sanctions on Tuesday October 5, 2010 if I do not have the disclosure by Monday, October 4, 2010. Due to your clients' failure to provide initial disclosures, it is with regret that I must postpone the deposition of your client, Dempster Jackson, set for October 6, 2010.

Tina M. Ezzell
Attorney
Direct 602-452-2747 | Fax 602-255-0103
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EXHIBIT M

DECLARATION

I, Tina M. Ezzell, by my signature below, hereby certify that I have attempted in good faith to confer with Debtors' counsel, Michael J. Fatta, in an effort to obtain discovery without court action.

DATED: 10 / 18 / 10 
Tina M. Ezzell